

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JAN 30 2002


CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR-01-86 JP

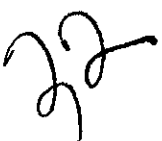
ESTELLA RODRIGUEZ,

Defendant.

MEMORANDUM OPINION AND ORDER

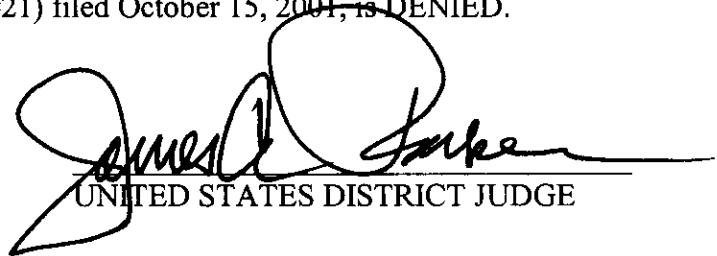
This matter is before the Court on Defendant's "Motion to Change Method by Which Balance of Sentence Is Served" (Doc. #21) filed October 15, 2001. Defendant claims she qualifies for participation in the "Family Unity Demonstration Project," 42 U.S.C. §§ 13882-902, but the Bureau of Prisons ("BOP") has failed to develop halfway houses in compliance with the statute. She seeks an order directing that the remainder of her sentence be served in home confinement or a halfway house.

The motion must be denied as a jurisdictional matter. After a judgment of conviction is entered, the Court's authority to modify a sentence is limited to specific statutory authorization, *United States v. Smartt*, 129 F.3d 539, 541 (10th Cir. 1997); *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997); *United States v. Blackwell*, 81 F.3d 945, 947-49 (10th Cir. 1996), and the referenced statutory provisions do not provide for sentence modification, *see* § 13901(a) (program participation at discretion of Attorney General). Nor do other applicable statutes or guidelines allows post-sentencing judicial consideration of home confinement. *See, e.g., United States v. Maples*, 95 F.3d 35, 37 (10th Cir. 1996) (§ 5K2.0 factors considered as a discretionary matter at



sentencing), *cert. denied*, --- U.S. ---, 117 S.Ct. 716 (1997); *and cf.* U.S.S.G. § 5F1.2; *Prows v. Federal Bureau of Prisons*, 981 F.2d 466, 469-70 (10th Cir. 1992) (BOP has discretion as to pre-release home confinement), *cert. denied*, 510 U.S. 830 (1993). Because the Court has no authority to consider the relief sought by Defendant, the motion will be denied.

IT IS THEREFORE ORDERED that Defendant's "Motion to Change Method by Which Balance of Sentence Is Served" (Doc. #21) filed October 15, 2001, is DENIED.



UNITED STATES DISTRICT JUDGE